

Differences between Commissioner for Oaths and Notary Public under the Laws of Malaysia

CFO VS NP

Commissioner for Oaths (“CFO”) has the power to administer oaths or affirmations for legal documents such as statutory declarations and affidavits, which are intended **to be used in Malaysia**.

(Rules 9 and 10 of the Commissioner for Oaths Rules 2018)

CFO is appointed by the Chief Justice of the Federal Court of Malaysia.

(Section 11 of the Courts of Judicature Act 1964)

CFO is not permitted to certify true copies of any documents. CFO too cannot be a witness to any agreements unless permitted by law such as under:

- (i) Powers of Attorney Act 1949 (section 3);
- (ii) Moneylenders Act 1951 (section 27);
- (iii) Hire-Purchase Act 1967 (section 22); and
- (iv) Land Ordinance (Sabah Cap. 68) (section 97).

Fees structure of CFO is governed under rule 7 and the Second Schedule of the Commissioner for Oaths Rules 2018. For affirmations of statutory declarations, the fees chargeable shall be in accordance with section 4 of the Statutory Declarations Act 1960 and the Statutory Declarations (Fees) (Amendment) Order 2023.

CFO is not categorised as a “reporting institution” under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

Categories of persons who are qualified to be appointed as CFO are as follows:

- (i) Malaysian lawyer with seven years of experience;
- (ii) Public officer who is confirmed in his appointment;
- (iii) Officer of a statutory body (eg Employees Provident Fund, Lembaga Hasil Dalam Negeri, etc); and
- (iv) Persons with relevant past experience that qualifies him/her for the job.

(Rule 3 of the Commissioner for Oath Rules 2018)

Notary Public (“NP”) has the power to draw, attest or certify under an official seal, documents which are intended **to be used outside of Malaysia**.

(Section 4 of the Notaries Public Act 1959)

NP is appointed by the Attorney General of Malaysia consulting the Bar Council or in relation to Sabah or Sarawak, after consulting the State Attorney General.

(Section 3 of the Notaries Public Act 1959)

NP has the same powers and functions as a notary public in England, which include becoming a witness to any agreement and can certify true copies of any documents. A notary public may administer oaths and affirmations for affidavits and statutory declarations:

- (i) for proving the due execution of any document;
- (ii) for matters pertaining to a sea vessel; and
- (iii) for the purpose of being used in any place or court outside of Malaysia.

(Section 4 of the Notaries Public Act 1959)

NP’s fees structure is governed under the Notaries Public (Fees) (No. 1) Rules 1981 (PUA 198/81).

NP is categorised as a “reporting institution” that is responsible to submit the Data Compliance Report (“DCR”) to Bank Negara Malaysia.

(Paragraph 17 of the First Schedule, Part 1 of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 613)

NP is appointed upon application by an advocate and solicitor of the High Court of Malaya (*section 3(2) of the Notaries Public Act 1959*). The advocate and solicitor must have at least 15 years in continuous active practice in the legal profession in Malaysia.



Issued by:

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